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International application No.
PCT/DE2005/000042

The current application lacks the requisite disclosure (PCT Article 5) and fails to meet the requirement for clarity (PCT Article 6) to such an extent that it does not appear possible to carry out a meaningful search.

The application does not contain the necessary features that are essential to the implementation of the invention. More particularly:

- i) the nanoparticulate carbon structure (NCF) that is claimed in claim 1 is unclear, since it is not apparent how the NCF can at the same time have a cubic (sp₃) modification with fullerene formation (sp₂). There is also inconsistency between claims 1 and 2: the quantity of admixtures in claim 2 may be zero mass %, whereas in claim 1 these admixtures must be included in the structure. In addition, the total concentration of constituents for the lowest value of carbon in claim 2 is less than 100 mass %. The composition of the structure is therefore unclear;
- ii) the product in claim 14 is not adequately defined. The application as a whole does not disclose which atoms are the "surface atoms" of the nano core or what is the structure of the remaining product. The method in claim 15 is thus also unclear;
- iii) the methods in claims 16 and 17 are inadequately disclosed, since the application does not contain any information that indicates what educts (claim 16: no definition; claim 17: only the formula C₇H₅N₃O₆ is used, this formula encompassing a number of options) are used or what product is obtained.

The applicant should note that both the negative oxygen balance (in claims 16 and 17) and the definitions of the cage structure (<<C240 in claim 18 and >>C240 in example 1) are unclear.

Example 1 reveals precisely this problem and therefore cannot be used as a basis for a person skilled in the art wishing to implement the invention;

- iv) since the NCF structure is unclear (see above), the subject matter of claims 20 and 22 to 30 also cannot be searched.

In view of the above objections, it would appear to be that difficult to define the scope of protection that no search can be carried out.

The applicant is advised that claims or parts of claims relating to inventions in respect of which no international search report has been established cannot normally be the subject of an international preliminary examination (PCT Rule 66.1(e)). In its capacity as International Preliminary Examining Authority the EPO generally will not carry out a preliminary examination for subjects that have not been searched. This also applies to cases where the claims were amended after receipt of the international search report (PCT Article 19) or where the applicant submits new claims in the course of the procedure under PCT Chapter II. After entry into the regional phase before the EPO, however, an additional search can be carried out in the course of the examination (cf. EPO Guidelines, C-VI, 8.5) if the defects that led to the declaration under PCT Article 17(2) have been remedied.